

CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Isabel Cifarelli	Team: Squad #11	CCRB Case #: 202002869	<input type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input type="checkbox"/> Abuse	<input checked="" type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Monday, 01/06/2020 9:00 PM	Location of Incident: [REDACTED]	Precinct: 109	18 Mo. SOL 7/6/2021	EO SOL 2/20/2022	
Date/Time CV Reported Thu, 03/05/2020 4:25 PM	CV Reported At: CCRB	How CV Reported: In-person	Date/Time Received at CCRB Thu, 03/05/2020 4:25 PM		

Complainant/Victim	Type	Home Address
[REDACTED]	[REDACTED]	[REDACTED]

Witness(es)	Home Address
[REDACTED]	[REDACTED]

Subject Officer(s)	Shield	TaxID	Command
1. POM Kevin Martin	24921	941068	109 PCT
2. POM Daniel Daddino	02531	961509	109 PCT

Officer(s)	Allegation	Investigator Recommendation
A.POM Kevin Martin	Off. Language: Police Officer Kevin Martin made a comment to § 87(2)(b) based on her national origin.	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]
§ 87(4-b), § 87(2)(g)	[REDACTED]	[REDACTED]

Case Summary

On March 5, 2020, § 87(2)(b) filed this complaint in person at the CCRB.

On January 6, 2020, § 87(2)(b) was at her home, located at § 87(2)(b) in Queens, when she got into a dispute with her ex-boyfriend § 87(2)(b) the co-owner of her apartment. The dispute was regarding which of them could reside in one of the bedrooms in the apartment. § 87(2)(b) left the apartment and returned with PO Kevin Martin and PO Daniel Daddino. PO Martin then allegedly made several statements about § 87(2)(b)'s national origin (**Allegation A: Offensive Language, § 87(2)(g)**). § 87(4-b), § 87(2)(g)

No arrests were made, and no summonses were issued during this incident.

The investigation did not obtain video footage of this incident. On March 2, 2021, a request for body-worn camera footage was sent to the NYPD. On March 8, 2021, negative results were returned (BR 01).

Findings and Recommendations

Allegation (A) Offensive Language: Police Officer Kevin Martin made a comment to § 87(2)(b) based on her national origin.

§ 87(2)(b) testified that when the officers responded to the apartment, § 87(2)(b) told the officers that this was his apartment, that § 87(2)(b) only lived there, and it was not her apartment (BR 02-03). PO Martin told § 87(2)(b) that the apartment belonged to § 87(2)(b) and that § 87(2)(b) could not live there. § 87(2)(b) tried to explain that she co-owned the apartment, and that she lived there. PO Martin then stated, "This is not China," "This is typical Chinese practice," and "this is not how Americans do things." § 87(2)(b) did not know why PO Martin stated this to her, as § 87(2)(b) is also Chinese.

In an unverified phone statement, § 87(2)(b) stated that he did not recall each specific time that the police responded to § 87(2)(b), but that he called 911 regarding this situation approximately five times during January and February of 2020 (BR 04). Each time, it was because § 87(2)(b) picked the lock on his bedroom door, threw his belongings into the living room of the apartment, and rented his room out to strangers. Several times, § 87(2)(b) got into verbal arguments with the officers that responded.

PO Martin testified that when he responded to § 87(2)(b), he spoke to § 87(2)(b) who stated that § 87(2)(b) had changed the locks to his bedroom and moved his belongings from the room (BR 05). § 87(2)(b) stated that he and § 87(2)(b) were co-owners of the apartment and showed PO Martin identification that showed that he lived at the address. PO Martin explained to § 87(2)(b) that she could not change the locks to § 87(2)(b)'s bedroom. § 87(2)(b) did not respond to PO Martin while he was explaining this and appeared to be ignoring him. At one point, § 87(2)(b) walked away from PO Martin and into a separate room. Once she walked into the separate room, PO Martin could not see her, as she was behind a curtain. Once she moved away, PO Martin did not continue to speak to her. PO Martin did not recall how long he was speaking to § 87(2)(b) or how long he was in the apartment in total. Other than walking away from PO Martin, § 87(2)(b) was not acting strangely or inappropriately.

PO Martin never discussed or questioned § 87(2)(b)'s behavior. He was not aware of her country of origin and did not mention her nationality to her or relate her nationality to her behavior in any way. He did not state, "This isn't China," "This is typical Chinese practice," or "This is not how Americans do things."

PO Daddino testified that he did not have any independent recollection of this incident (BR 06). He did not recall any actions that he or PO Martin took on this date at this address and did not recall observing PO Martin making any statements regarding § 87(2)(b)'s nationality, including statements such as, "This isn't China," "This is typical Chinese practice," or "This is not how

Americans do things.”

§ 87(2)(g)

§ 87(4-b), § 87(2)(g)

Civilian and Officer CCRB Histories

- § 87(2)(b)
- PO Martin has been a member of service for 15 years and has been a subject in 37 CCRB complaints and 117 allegations, of which 18 were substantiated. § 87(2)(g)
- Case #201101547 involved substantiated allegations of a stop and a frisk against PO Martin. The Board recommended Command discipline and the NYPD did not impose a penalty.
- Case #201114083 involved a substantiated allegation of a stop against PO Martin. The Board recommended Command discipline and the NYPD did not impose a penalty.
- Case # 201205296 involved substantiated allegations of force, a stop, a frisk, search of a person, threat of arrest, and discourteous action against PO Martin. The Board recommended charges and the NYPD imposed a penalty of 15 forfeited vacation days.
- Case #201600123 involved a substantiated allegation of a frisk against PO Martin. The Board recommended Command discipline B and the NYPD did not impose a penalty.
- Case # 201603962 involved substantiated allegations of force, question, stop, frisk, strip search, discourtesy, and offensive language action against PO Martin. The Board recommended charges and the NYPD imposed a penalty of instructions and 10 forfeited vacation days.

Mediation, Civil and Criminal Histories

- § 87(2)(b) declined to mediate the complaint.
- On July 8, 2021, a request for any Notice of Claim being filed regarding this complaint was sent to the Office of the New York City Comptroller. The response will be added to the case file upon receipt.
- According to the Office of Court Administration, § 87(2)(b) has no criminal convictions within New York City as of July 8, 2021 (BR 09).

Squad No.: 11

Investigator:	<u>Isabel Cifarelli</u>	<u>Inv. Isabel Cifarelli</u>	<u>07/08/2021</u>
	Signature	Print Title & Name	Date

Squad Leader: Edwin Pena IM Edwin Pena 07/09/21
Signature Print Title & Name Date

Reviewer: _____

Signature _____ Print Title & Name _____ Date _____